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| APPLICATION NO.                                                                                               | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.           | CONFIRMATION NO.       |
|---------------------------------------------------------------------------------------------------------------|-------------|----------------------|-------------------------------|------------------------|
| 10/789,012                                                                                                    | 02/27/2004  | Sam Pullara          | BEAS-01322US1                 | 6896                   |
| 23910 7590 10/05/2007<br>FLIESLER MEYER LLP<br>650 CALIFORNIA STREET<br>14TH FLOOR<br>SAN FRANCISCO, CA 94108 |             |                      | EXAMINER<br>NGUYEN, PHILLIP H |                        |
|                                                                                                               |             |                      | ART UNIT<br>2191              | PAPER NUMBER           |
|                                                                                                               |             |                      | MAIL DATE<br>10/05/2007       | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/789,012

Applicant(s)

PULLARA, SAM

Examiner

Phillip H. Nguyen

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,8,9,11,13,14,16,18,19,21,23,24,26,28,29,31 and 33 is/are rejected.
- 7) ☒ Claim(s) 2,5,7,10,12,15,17,20,22,25,27,30,32 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is in response to the amendment filed 7/17/2007.
2. Claims 1-30 have been amended. Claims 31-34 are newly added.
3. Claims 1-34 are pending and have been considered below.

#### ***Response to Amendment***

#### ***Specification***

4. The amendment filed 7/17/2007 overcomes the objection set to the specification of previous action. Therefore, the objection is withdrawn.

#### ***Claim Objections***

5. The amendment filed on 7/17/2007 overcomes the objection set to claims 1,2,5-7, 10-12, 15, 17, 20, 22, 25, 27 and 30 of previous action. Therefore, the objection is withdrawn.

#### ***Allowable Subject Matter***

6. Claims 2, 5, 7, 10, 12, 15, 17, 20, 22, 25, 27, 30, 32 and 34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2, 5, 7, 10, 12, 15, 17, 20, 22, 25, 27 and 30 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Trademark or Trade Name as a Limitation in the Claims:

Claims 2, 5, 7, 10, 12, 15, 17, 20, 22, 25, 27 and 30 contain the trademark/trade name JAVA. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. See MPEP 7.35.01.

9. Claims 31 and 33 are unclear to examiner as to whether the preprocessor server component is on the second application server or on the first application server. Since claims 31 and 33 depend on claims 1 and 6 respectively and the claim language suggests that the preprocessor server component can only be on either one of the servers, claims 31 and 33 are improper. Examiner assumes the preprocessor server component is on the first application server.

**Response to Arguments**

10. Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

**Claim Rejections - 35 USC § 102**

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1, 3, 4, 6, 8, 9, 11, 13, 14, 16, 18, 19, 21, 23, 24, 26, 28, 29, 31 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen et al. (United States Patent Application Publication No.: US 2003/0188036 A1).

As per claims 1, 6, 11, 16, 21 and 26:

Chen discloses:

- a first application server that includes an application deployed thereon (see at least paragraph [0030] "...**migrating a program from the IBM Webshere Application server to the Sun Microsystems iPlanet Application Server**");  
and

- a preprocessor server component on the first application server used to interrogate the functionality of the deployed application (see at least paragraph [0036] "***the migration program 116 determines the type of the file, for by examining the file name extension or reading a portion of the file itself***"), the applications' deployment information (see at least paragraph [0037] "***The migration program 116 determines whether the file is a deployment descriptor file. If so, the migration program 116 converts the file into a format compatible with the destination server***") and any dependencies included therein (see at least paragraph [0027] "***the migration program 116 accesses the mapping database to match a propriety extension 128 (e.g., a call to a propriety function in the source server environment) to a compatibility replacement in the destination server environment***" – function call is dependencies), generate a new configuration a new configuration information and communicate the new configuration information to a second application server that is used in deploying the application at the second application server (see at least paragraph [0039] "***The migration program 116 recognizes the files names of configuration files and translates the configuration files for the destination application server***").

As per claims 3, 8, 13, 18, 23 and 28:

Chen further discloses:

- wherein the new configuration information is saved to a configuration file for subsequent use in deployment (see at least paragraph [0039] "***The migration program 116 recognizes the files names of configuration files and translates the configuration files for the destination application server***").

As per claims 4, 9, 14, 19, 24 and 29:

Chen further discloses:

- wherein the system further comprises a graphical user interface or web interface that allows the developer to select an application at the first application server for subsequent deployment at the second application server (see at least paragraph [0031] "***the migration program 116 initially accepts a selection of source project 118 files or a selection of a directory containing the source project 118 files...***").

As per claims 31 and 33:

Chen further discloses:

- wherein the preprocessor server component is on the first application server (see at least **FIG. 1**).

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip H. Nguyen whose telephone number is (571) 270-1070. The examiner can normally be reached on Monday - Thursday 10:00 AM - 3:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PN  
9/19/2007



WEI ZHEN  
SUPERVISORY PATENT EXAMINER